

The State of South Carolina



Office of the Attorney General

T. TRAVIS MEDLOCK
ATTORNEY GENERAL

REMBERT C. DENNIS BUILDING
POST OFFICE BOX 11549
COLUMBIA, S.C. 29211
TELEPHONE 803-734-3680

January 23, 1987

The Honorable Sam Applegate
Member, South Carolina Senate
Suite 613
Gressette Senate Office Building
P. O. Box 142
Columbia, South Carolina 29202

Dear Senator Applegate:

Attorney General Medlock has referred your recent letter to me for reply. You have stated that most of the area proposed to be incorporated in Seabrook Island is within two restricted areas. You have inquired whether or not incorporation of Seabrook Island would require that the public be afforded greater access to this area than is presently allowed.

As you note in your letter, this is a subject about which our Office has previously issued several opinions. (Copies enclosed: 5/14/76 to Representative James B. Van Osdell from Karen L. Henderson; 2/17/82 to the Honorable John T. Campbell from Treva Ashworth; 6/9/82 to R. Mike Easterwood from Treva Ashworth)

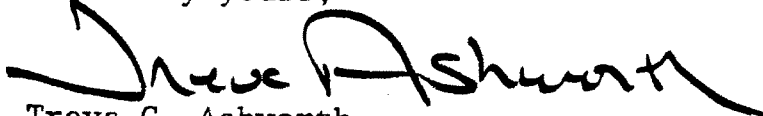
The situation in Tega Cay and Briarcliff Acres were unique in that the entire proposed area to be incorporated was a private community. Seabrook Island appears to more closely resemble the situation in Hilton Head where certain residential areas were still maintained as private communities following incorporation.

Without being familiar with the area, it is impossible to advise you in any more detail than has already been provided in the enclosed opinions which set out the general law in this area. Any further determination of whether or not these areas would be able to exist as they presently are following incorporation would have to be based on a factual determination which this Office

The Honorable Sam Applegate
January 23, 1987
Page 2

is unable to perform. Only a court of competent jurisdiction would be able to make the required factual determination on the issue you have raised as it specifically relates to Seabrook Island.

Sincerely yours,



Treva G. Ashworth
Senior Assistant Attorney General

TGA:ss
Enclosures

REVIEWED AND APPROVED BY:



ROBERT D. COOK
EXECUTIVE ASSISTANT FOR OPINIONS